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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,756	02/10/2000	Wolfgang G. Eibach	UK999054	4338

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EXAMINER

POLTORAK, PIOTR

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/501,756

Applicant(s)

EIBACH ET AL.

Examiner

Peter Poltorak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The Amendment, and remarks therein, received on 6/16/2005 have been entered and carefully considered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

***Response to Amendment***

3. Applicant's arguments have been carefully considered but they were not found persuasive.
4. As per claims 1 and 6 applicant argues that *Colson* does not describe the subject matter of claim 6 with sufficient clarity and detail to anticipate claim 6. In order to defend this assumption applicant simply states that "registry 108 is not a gateway for controlling communications across bus 116 and bus 116 is not a data communications link between gateway 122 and computing platform 102". As a result, applicant argues that *Colson* does not disclose a gateway component for controlling communications across the link that limits the operations which can be performed at the first data processing unit to only a predefined set of permitted operations in response to requests from the second processing unit. However, applicant does not provide any concrete evidence why the registry is not a gateway and why bus is not a data communications link between gateway 122 and computing platform 102.
5. The examiner finds the argument not persuasive and refers applicant to §12 of the previous Office Action.

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6. As per claim 7 applicant argues that *Colson* does not pertain to security issues related to data processing systems connected to one or more security-critical resources.
7. The examiner points to col. 2 lines 43-61, col. 9 lines 9-10 of *Colson*.
8. In response to applicant's argument in regard to claims 1-5, 7-11 that there is no basis for obviousness due to the differences between the subject matter and the prior art, the examiner reminds applicant that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it anticipates the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).
9. As per claim 7, applicant argues that *Colson* does not pertain to security issues related to data processing systems connected to one or more security-critical resources.
10. The examiner points out that not only *Colson* is concerned with security issues (e.g. col. 2 lines 43-61, col. 9 lines 9-10) but more importantly *Colson's* teaching makes obvious applicant's invention as claimed.
11. Similarly, applicant argues that *Bossemeyer* is not concerned with security issues and that the examiner does not establish a prima facie case of obviousness.

12. The examiner points applicant to Fig. 4 object 80 (*Bossemeier*) and §14 of the previous Office Action.
13. Applicant argues the claims 9-11 rejections stating that *Colson* and *Parrillo* taken alone, or in combination, do not recite the element "wherein the secure resources include the vehicle's internal device control units".
14. The examiner finds the argument not persuasive and refers applicant to §12 of the previous Office Action.
15. As per claim 2, Applicant argues that *Colson* in view of *Parrillo* do not disclose a list of "a predefined set of operations".
16. The examiner points out that any operations to be executed by a computer must be available and found (predefined). It is inherent that computers cannot execute operations that do not exist, or at the very least not available to the computers. In other words, computers must first locate the requested operation before they can execute the operation's code.
17. Lists are one of the most common structures in the computer environments (e.g. list of files and directories including applications) and as a result it would have been obvious (if not anticipated) to one of ordinary skill in the art at the time of applicant's invention to use a list of predefined set of permitted operations to match (compare) with the requested operations. One of ordinary skill in the art would have been motivated to perform such a modification in order to be able to execute the operations.

18. As per claim 3 applicant argues that *Colson* describes "static configuration" but does not necessarily describe a "static operating system environment" and that although *Serughett* teach a statically defined kernel there is not motivation to combine.
19. The examiner points applicant to §22 of the previous Office Action.
20. In the next several pages applicant essentially repeats the cited above allegations concentrating in particular on "no motivation to combine".
21. The examiner points out that the motivation to combine is present with each of the 103 rejections and refers applicant for further details to the previous Office Action.
22. Claims 1-11 have been examined.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 6 remains rejected under 35 U.S.C. 102(e) as being anticipated by *Colson et al.* (U.S. Patent No 6236909) as discussed in the previous Office Action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 7 remains rejected under 35 U.S.C. 103(a) as being unpatentable over *Colson et al.* (U.S. Patent No 6236909) in view of *Bossemeyer et al.* (U.S. Pub. No. 20020037004A1) as discussed in the previous Office Action.
3. Claims 1-2 and 8-11 remain rejected under 35 U.S.C. 103(a) as being unpatentable over *Colson et al.* (U.S. Patent No 6236909) in view of *Parrillo* (U.S. Patent No. 5442553) and in view of *Nathanson* (U.S. Patent. No. 6263268) as discussed in the Previous Office Action.
4. Claim 3 remains rejected under 35 U.S.C. 103(a) as being unpatentable over *Colson et al.* (U.S. Patent No 6236909) in view of *Parrillo* (U.S. Patent No. 5442553) and in view of *Nathanson* (U.S. Patent. No. 6263268), and in further view of *Serughett* (Marc Serughett, "OSEK: a super-small kernel for deeply embedded applications?", 1999) as discussed in the previous Office Action.
5. Claims 1 and 4 remain rejected under 35 U.S.C. 103(a) as being unpatentable over *Colson et al.* (U.S. Patent No 6236909) in view of *Parrillo* (U.S. Patent No. 5442553) as discussed in the previous Office Action.
6. Claim 5 remains rejected under 35 U.S.C. 103(a) as being unpatentable over *Colson et al.* (U.S. Patent No 6236909) in view of *Parrillo* (U.S. Patent No. 5442553) and in further view of *Serughett* (Marc Serughett, "OSEK: a super-small kernel for deeply embedded applications?", 1999) as discussed in the previous Office Action.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Poltorak whose telephone number is (571)272-3840. The examiner can normally be reached Monday through Thursday from 9:00 a.m. to 4:00 p.m. and alternate Fridays from 9:00 a.m. to 3:30 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.



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Signature  
  
8/25/05  
Date

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